



STATE OF NEW YORK
DEPARTMENT OF HEALTH
P.O. Box 11729
Albany, NY 12211

Notice of Decision

Decision Date: October 30, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000021168

[REDACTED]

Dear [REDACTED],

On October 23, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's August 5, 2017 eligibility determination notice.

The enclosed Decision, rendered after that hearing, is issued by the Appeals Unit of NY State of Health.

If you have questions about your Decision, you can contact us by:

- Calling the Customer Service Center at 1-855-355-5777
- Sending Mail to:
NY State of Health Appeals
P.O. Box 11729
Albany, NY 12211
- Sending a Fax to 1-855-900-5557

When contacting NY State of Health about your appeal and/or the Decision, please refer to the Appeal Identification Number at the top of this notice.

Legal Authority

We are sending you this notice in accordance with Code of Federal Regulation 45 CFR § 155.545.

If you need this information in a language other than English or you need assistance reading this notice, we can help you. Call 1-855-355-5777 (TTY - English: 1-800-662-1220) (TTY - Spanish: 1-877-662-4886).

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DEPARTMENT OF HEALTH
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Decision

Decision Date: October 30, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000021168



Issue

The issue presented for review by the Appeals Unit of NY State of Health is:

Did NYSOH properly determine that your child was eligible to enroll in Child Health Plus at full price, effective September 1, 2017?

Procedural History

On November 13, 2016, NYSOH issued a renewal notice stating your child was eligible for Child Health Plus, effective January 1, 2017.

On November 19, 2016, NYSOH issued an enrollment notice confirming your child's enrollment in a Child Health Plus plan for a cost of \$60.00 per month, effective January 1, 2017.

On August 4, 2017, NYSOH received your child's application for health insurance. That day a preliminary eligibility determination was prepared stating your child was eligible to enroll in a full price Child Health Plus plan, effective September 1, 2017.

On August 4, 2017, you spoke to NYSOH's Account Review Unit and appealed that determination insofar as your child was eligible for coverage through Child Health Plus, at full price.

On August 5, 2017, NYSOH issued an eligibility determination notice stating that your child was eligible to enroll in Child Health Plus at full price, effective September 1, 2017.

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On August 5, 2017, NYSOH issued an enrollment notice confirming your child's enrollment in a Child Health Plus plan for a cost of \$319.85 per month, starting September 1, 2017.

On August 10, 2017, NYSOH issued an eligibility determination notice stating your child was eligible for Child Health Plus with a \$60.00 premium for a limited time, effective September 1, 2017. The notice stated your child was granted Aid to Continue until a decision is made on your appeal.

On August 10, 2017, NYSOH issued an enrollment notice confirming your child's enrollment in a Child Health Plus plan for a cost of \$60.00 per month, starting September 1, 2017.

On October 13, 2017, a Hearing Officer from NYSOH's Appeals Unit called you and placed you under oath. While under oath you testified you had an unforeseen appointment and could not proceed with a hearing at that time. Your case was adjourned to October 23, 2017 at 9:00 a.m.

On October 23, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. You waived formal notice to a written Notice of Hearing at your appearance. The record was developed during the hearing and closed at the end of the hearing.

Findings of Fact

A review of the record supports the following findings of fact:

- 1) You testified that you expect to file your 2017 tax return with a tax filing status of married filing jointly. You will claim your one child as a dependent on that tax return.
- 2) You testified you have another adult daughter living with you but you were not sure if you will be claiming her as a dependent for 2017.
- 3) The application that was submitted on August 4, 2017 listed an annual household income of \$93,000.00, consisting of \$78,000.00 you earn from your employment and \$15,000.00 your spouse receives from her employment. You testified that your amount will be \$77,500.00 and your spouse's amount was correct.
- 4) At the time of your August 4, 2017 application, your child was [REDACTED].

- 5) Your application states that you will not be taking any deductions on your 2017 tax return. You testified this was correct but do plan on claiming medical expenses. You further pay a student loan for your adult daughter in the amount of \$1,200.00 a month.
- 6) Your application states that you live in [REDACTED].

Conflicting evidence, if any, was considered and found to be less credible than the evidence noted above.

Applicable Law and Regulations

Child Health Plus

Child Health Plus (CHP) is a sliding-scale-premium program for children who are in a household that is over income for regular Medicaid (see New York Public Health Law (NY PHL) § 2510 et seq. and 42 USC § 1397aa). Eligibility rules are set out in NY PHL § 2511(2), as well as in the NYS Department of Health 2008-2012 Contract and Plan Manual.

A child who meets the eligibility requirements for CHP may be eligible to receive a subsidy payment if the child resides in a household with a household income at or below 400% of the federal poverty level (FPL) (NY PHL § 2511(2)(a)(iii)). To be eligible to enroll in CHP with subsidy payments, a child must not be “eligible for medical assistance”; that is, must not be eligible for Medicaid (NY PHL § 2511(2)(b)).

The amount of the premium payment, if any, that must be made on behalf of a child who enrolls in a CHP plan depends upon the child’s family household income (NY PHL § 2510(9)(d)). No payments are required for eligible children whose family household income is less than 160% of the FPL (NY PHL § 2510(9)(d)(1)). If the family household income is 160% or higher, premiums range from \$9.00 per month to \$60.00 per month (NY PHL § 2510(9)(d)).

In an analysis of Child Health Plus eligibility, the determination is based on the FPL “for the applicable budget period used to determine an individual's eligibility” (42 CFR § 435.4). On the date of your application, that was the 2017 FPL, which is \$20,420.00 for a three-person household (82 Fed. Reg. 8831).

Modified Adjusted Gross Income

NYSOH bases its eligibility determinations on modified adjusted gross income as defined in the federal tax code (45 CFR § 155.300(a)). The term “modified adjusted gross income” means adjusted gross income increased by (1) any income that was excluded under 26 USC § 911 for United States citizens or

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residents living abroad, (2) tax-exempt interest received or accrued, and (3) Social Security benefits that were excluded from gross income under 26 USC § 86 (see 26 USC § 36B(d)(2)(B), 26 CFR § 1.36B-1(e)(2)).

“Adjusted gross income” is the gross income of the taxpayer minus the deductions permitted (26 USC § 62). Subject to some limitations, tuition and fees for a dependent’s higher education paid by the tax payer to a qualified educational institution can be deducted from adjusted gross income in an amount up to \$4,000.00, provided the tax payer’s yearly income does not exceed \$80,000.00 for a single individual or \$160,000.00 if married filing jointly. This deduction was renewed by Congress in December 2014 and made retroactive to the 2014 tax year and extended to December 31, 2017 (26 USC § 222(e); see IRS Publication 970).

Medical expenses and dental expenses may be itemized on a Form 1040 Schedule A; however, these expenses are not used to compute adjusted gross income (26 USC § 213(a); Internal Revenue Service (IRS) Publication 502 (2016)).

Legal Analysis

The issue under review is whether NYSOH properly determined that your child was eligible to enroll in Child Health Plus at full price, effective September 1, 2017.

According to the record, you expect to file a joint federal income tax return for the 2017 tax year and claim your one child as a dependent. Therefore, your child is in a three-person household.

In your August 4, 2017 application, you attested to an expected household income of \$93,000.00. The application also stated that your child is [REDACTED]. NYSOH relied upon this information. You testified you do plan on taking deductions for your 2017 tax return for medical expenses. These deductions do not qualify for a Modified Adjusted Gross income analysis as they are not used in calculating an individual’s adjusted gross income. You further explained you do pay a student loan for your adult daughter, however, any exemptions for tuition and fees are limited to a tax payer or their dependent only. Therefore, NYSOH properly relied on the information in your application in considering your child’s annual household income to be \$93,000.00.

A child is eligible to enroll in Child Health Plus if they meet the non-financial requirements, are not eligible for Medicaid, and have a household income below 400% of the FPL. Households with an income over 400% of the 2017 FPL are eligible for full price plans if the child is otherwise eligible for non-financial criteria. On the date of your application, the relevant FPL was \$20,420.00 for a three-

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person household. Since \$93,000.00 is 455.44% of the 2017 FPL, NYSOH properly found your child to be eligible for Child Health Plus at full price.

Since the August 5, 2017 eligibility determination notice properly stated that, based on the information you provided, your child was eligible for Child Health Plus for full price, it is correct and is [REDACTED].

Decision

The August 5, 2017 eligibility determination notice is [REDACTED].

Effective Date of this Decision: October 30, 2017

How this Decision Affects Your Eligibility

Your child remains eligible for Child Health Plus at full price.

If You Disagree with this Decision (Appeal Rights)

This Decision is final unless you submit an appeal request to the Federal Marketplace or bring a lawsuit under New York Civil Practice Law and Rules, Article 78.

You may bring a lawsuit on any Appeals Unit decision in New York State court in accordance with Article 78 of the New York Civil Practice Law and Rules. This must be done within four months of the Decision Date, which appears on the first page of this Decision.

Additionally, Appeals Unit decisions on issues involving eligibility for qualified health plans, advance premium tax credits, and cost-sharing reductions may be appealed to the Federal Marketplace. This must be done within 30 days of the Decision Date, which appears on the first page of this Decision (45 CFR § 155.520(c)).

If you have questions about appealing to the Federal Marketplace, you can contact them in any of the following ways:

- By calling the Customer Service Center at 1-800-318-2596
- By mail at:

Health Insurance Marketplace
Attn: Appeals

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465 Industrial Blvd.
London, KY 40750-0061

- By fax: 1-877-369-0129

If you wish to be represented by an attorney in bringing an outside appeal and do not know how to go about getting one, you may contact legal resources available to you. You may, for example, contact the local County Bar Association, Legal Aid, or Legal Services.

If You Have Questions about this Decision (Customer Service Resources):

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- By calling the Customer Service Center at 1-855-355-5777
- By mail at:
NY State of Health Appeals
P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The August 5, 2017 eligibility determination notice is [REDACTED].

Your child remains eligible for Child Health Plus at full price.

Legal Authority

We are sending you this notice in accordance with Code of Federal Regulation 45 CFR § 155.545.

A Copy of this Decision Has Been Provided To:



Getting Help in a Language Other than English

This is an important document. If you need help to understand it, please call 1-855-355-5777. We can give you an interpreter for free in the language you speak.

Español (Spanish)

Este es un documento importante. Si necesita ayuda para entenderlo, llame al 1-855-355-5777. Le proporcionaremos un intérprete sin ningún costo.

中文 (Traditional Chinese)

這是重要的文件。如果您需要獲得關於瞭解文件內容方面的協助，請致電 1-855-355-5777。我們可以為您免費提供您所使用語言的翻譯人員。

Kreyòl Ayisyen (Haitian Creole)

Sa a se yon dokiman ki enpòtan. Si ou bezwen èd pou konprann li, tanpri rele nimewo 1-855-355-5777. Nou kapab ba ou yon entèprèt gratis nan lang ou pale a.

中文 (Simplified Chinese)

这是一份重要的文件。如果您需要帮助理解此文件，请打电话至 1-855-355-5777。我们可以为您免费提供相应语种的口译服务。

Italiano (Italian)

Questo è un documento importante. Per qualsiasi chiarimento può chiamare il numero 1-855-355-5777. Possiamo metterle a disposizione un interprete nella sua lingua.

한국어 (Korean)

중요한 서류입니다. 이해하는 데 도움이 필요하시면 1-855-355-5777 번으로 연락해 주십시오. 귀하의 언어에 대한 무료 통역 서비스가 제공됩니다.

Русский (Russian)

Это важный документ. Если Вам нужна помощь для понимания этого документа, позвоните по телефону 1-855-355-5777. Мы можем бесплатно предоставить Вам переводчика Вашего языка.

العربية (Arabic)

هذه وثيقة مهمة. إذا كنت بحاجة إلى مساعدة لفهم محتواها، يُرجى الاتصال بالرقم 1-855-355-5777. يُمكننا توفير مترجم فوري لك باللغة التي تتحدثها مجاناً.

বাংলা (Bengali)

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এটি এক গুরুত্বপূর্ণ নথি। এটি বুঝতে আপনার যদি সাহায্যের প্রয়োজন হয় তাহলে, অনুগ্রহ করে 1-855-355-5777 নম্বরে কল করুন। আপনি যে ভাষায় কথা বলেন বিনামূল্যে আমরা আপনাকে একজন দোভাষী দিতে পারি।

Français (French)

Ceci est un document important. Si vous avez besoin d'aide pour en comprendre le contenu, appelez le 1-855-355-5777. Nous pouvons mettre gratuitement à votre disposition un interprète dans votre langue.

हिंदी (Hindi)

यह एक महत्वपूर्ण दस्तावेज़ है। अगर आपको इसे समझने में सहायता चाहिए, तो कृपया 1-855-355-5777 पर कॉल करें। हम आपकी भाषा बोलने वाला एक दुभाषिया निःशुल्क उपलब्ध करवा सकते हैं।

日本語 (Japanese)

これは重要な書類です。理解するために支援が必要な場合は、1-855-355-5777 にお電話ください。通訳を無料で提供いたします。

नेपाली (Nepali)

यो एउटा महत्वपूर्ण कागजात हो। यसलाई बुझ्न तपाईंलाई मद्दत चाहिन्छ भने, कृपया 1-855-355-5777 मा फोन गर्नुहोस्। हामीले तपाईंले बोल्ने भाषामा तपाईंलाई निःशुल्क दोभाषे उपलब्ध गराउन सक्छौं।

Polski (Polish)

To jest ważny dokument. W przypadku konieczności skorzystania z pomocy w celu zrozumienia jego treści należy zadzwonić pod numer 1-855-355-5777. Istnieje możliwość uzyskania bezpłatnej usługi tłumacza języka, którym się posługujesz.

Twi (Twi)

Krataa yi ye tow krataa a ho hia. Se wo hia eho nkyerekyeremu a, ye sre wo, fre 1-855-355-5777. ye bɛtumi ama wo obi a okyerɛ kasa a woka no ase ama wo kwa a wontua hwee.

(Urdu) اردو

یہ ایک اہم دستاویز ہے۔ اگر آپ کو اسے سمجھنے کے لیے مدد کی ضرورت ہے تو براہ کرم 1-855-355-5777 پر کال کریں۔ ہم آپ کو آپ کی مادری زبان میں ایک مفت مترجم فراہم کر سکتے ہیں۔

Tiếng Việt (Vietnamese)

Đây là tài liệu quan trọng. Nếu quý vị cần trợ giúp để hiểu tài liệu này, vui lòng gọi 1-855-355-5777. Chúng tôi có thể cung cấp thông dịch viên miễn phí nói ngôn ngữ của quý vị.

אידיש (Yiddish)

דאס איז א וויכטיגער דאקומענט. אויב איר דארפט הילף עס צו פארשטיין, ביטע רופט 1-855-355-5777. מיר קענען אייך געבן א דאלמענטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.

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